

From: Frazao, Celso
To: 'microsoft.atr(a)usdoj.gov'
Date: 1/24/02 7:11pm
Subject: Microsoft Settlement

To: Judge Kollar-Kotelly
Re: Comments on Microsoft Proposed Final Judgment
Date: 24 Jan 2002
From: Celso Frazao
587 Center Dr.,
Palo Alto, CA 94301

I am a computer scientist active in my field for over 30 years. I am familiar with the software industry in general, and Microsoft's product line in particular, including its operating systems, browsers and other tools and applications. I am also familiar with similar products marketed by many of Microsoft's competitors. I have read the Proposed Final Judgment (PFJ) and numerous published articles and reports on the topic.

In my opinion the PFJ is flawed on many counts:

- * It does not effectively address or correct Microsoft's illegal practices.
- * It does not deny Microsoft the fruits of its ill-gotten gains.
- * It does not impose any punitive damages.
- * It does not adequately compensate those adversely affected by its past misconduct.
- * It does not prevent future recurrence of anticompetitive behaviors.
- * It does not do enough to restore competition and offer real choice to consumers.
- * It has no effective enforcement.
- * Its duration is too short.

The PFJ has no teeth and no real penalties for non-compliance. It relies too heavily on Microsoft's voluntary compliance, cooperation, self-control and good faith. It also leaves the interpretation of key elements of the agreement in the hands of the defendant itself. If past experience is any guide, only a fool would trust Microsoft to abide by such an agreement, because it is by necessity unfavorable to Microsoft and it provides little incentive to comply. This PFJ leaves the fox in charge of the chicken coop. Moreover, sufficient time is needed to restore fair competition to the marketplace, to level the playing field and ensure that it remains level. Removing all restraints after 5 years, even for an otherwise fair settlement, is grossly inadequate.

If allowed to take effect, the PFJ would do little to remedy the current situation, and be an utter disservice to consumers and Microsoft competitors. It would be a farce and travesty of justice.

Respectfully yours,

Celso J. Frazao
celso@netapp.com
Palo Alto, CA.

CC: 'microsoftcomments(a)doj.ca.gov'

